

UNITED STATES DISTRICT COURT OF MASSACHUSETTS  
WESTERN DIVISION

DEBRA JEAN,

Plaintiff

VS

NCO FINANCIAL SYSTEMS, Inc.

Defendant

07-30231-MAP

U.S. DISTRICT COURT  
DISTRICT OF MASS.

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FILED  
CLERK'S OFFICE

COMPLAINT

INTRODUCTION

1. Plaintiff Debra Jean brings this action to secure redress from unlawful credit and collection practices engaged in by defendant NCO Financial Systems, Inc. Plaintiff alleges violation of the Fair Debt Collection Practices Act 15 U.S.C. §1692 and seq. ("FDCPA"). The FDCPA broadly prohibits unfair or unconscionable collection methods, conduct which harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements, in connection with the collection of the debt. It also requires debt collectors to give debtor certain information. 15U.S.C. §1692d, §1692f and §1692g

VENUE AND JURISDICTION

2. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. Venue and personal jurisdiction in this District are proper because

a. Defendant's collection communications were received by Plaintiff within this District,

b. Defendant does or transacts business within this District.

PARTIES

4. Plaintiff Debra Jean is an individual who resides in the Western District of Massachusetts.

ST. CT.

5. Defendant NCO Financial Systems, Inc. is a Pennsylvania corporation with its principal place of business at 507 Prudential Road, Horsham, Pennsylvania.

6. Defendant operates a collection agency

7. Defendant is a "debt collector" as defined by FDCPA

#### FACTS

8. On May 7, 2007, plaintiff filed a Chapter 7 petition Bankruptcy (case #07-41732) in the Western District of Massachusetts. She received a discharge on August 22, 2007. A copy of the discharge order is attached as Exhibit A.

9. Among the debts scheduled and discharged was one owed to American Express in the amount of \$1,283.00.

10. The page of the schedule listing this debt is attached as Exhibit B

11. American Express was included on the matrix (service list) and notified of the bankruptcy proceedings.

12. A copy of the mailing matrix is included as Exhibit C

13. Both American Express and NCO Financial Services Inc. repeatedly telephoned the Plaintiff both at home and at her place of employment.

14. The Plaintiff notified American Express on July 3, 2007 of the bankruptcy proceedings on July 3, 2007 by certified mail and NCO Financial Systems, Inc. verbally of bankruptcy filing, the name and address of her counsel and not to contact her at her place of employment. Exhibit D

15. Even apart from the court notice, both American Express and the defendant could have easily ascertained the bankruptcy filing from (a) court records, (b) credit reports, or (c) commercial services such as Lexis-Nexis/Bank which exists for the purpose of reporting bankruptcies.

16. Nevertheless, on August 31, 2007, defendant sent plaintiff a collection letter which on information and belief sought to collect the American Express debt. A copy is attached as Exhibit E.

#### VIOLATION COMPLAINED OF

17. By sending plaintiff Exhibit E, defendant engaged in "false, deceptive, or misleading representation or means in connection with the collection of any debt" (§1692e, a false representation of the "character" of any debt (§1692e(2)(A)), and use of any false or deceptive means to collect or attempt to collect any debt or to obtain

information concerning a consumer” (§1692e(10), both because the debt was misrepresented and because the letter misrepresented that plaintiff owed a debt discharged in bankruptcy. *Randolph v. IMBS*, 368 F.3d 726, 728-30 (7<sup>th</sup> Cir. 2004).

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of the plaintiff and against the defendant for

- a. Statutory damages.
- b. Attorney’s fees, litigation expenses and costs of suit.
- c. Such other or further relief as the Court deems proper.



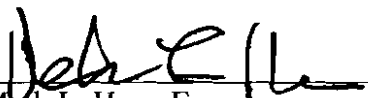
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**JURY DEMAND**

The plaintiff demands trial by jury.

NOTICE OF LIEN

Please be advised that we claim a lien upon any recovery herein for 1/3 of such amount as the court awards.

  
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